

## REMARKS

Claims 1-29 and 32-41 remain pending in the instant application. Claims 1-29 and 32-41 presently stand rejected. Claim 23 is amended herein. Entry of this amendment and reconsideration of the pending claims are respectfully requested.

### *Information Disclosure Statement*

Applicants submitted the following Information Disclosure Statements and Disclosure Citation Forms PTO-1449:

- a. Disclosure Statement and Citation Form citing five (5) references submitted on April 12, 2005;
- b. Disclosure Statement and Citation Form citing ninety-nine (99) references submitted on November 15, 2006;
- c. Disclosure Statement and Citation Form citing thirty (30) references submitted on December 4, 2006;
- d. Disclosure Statement and Citation Form citing four (4) references submitted on December 13, 2006;
- e. Disclosure Statement and Citation Form citing twelve (12) references submitted on March 7, 2007; and
- f. Disclosure Statement and Citation Form citing forty-six (46) references submitted on April 6, 2007.

Applicants kindly request that copies of the 1449 forms be returned with the Examiner's initials thereon indicating consideration of the cited art.

### *Claim Rejections – 35 U.S.C. § 112*

Claims 1-12 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Office Action states that claim 1 includes both apparatus and method limitations. However, claim 1 is directed towards a computer system (a product claim type) that includes a storage device having machine-executable instructions stored thereon. Such claims are commonly referred to as "Beauregard Claims," which are

extensively used in US Patent Practice. Beauregard Claims are themselves a subtype of product claim. Accordingly, Applicants respectfully submit that claim 1 is directed to a single statutory class of claim—namely the product claim type.

*Claim Rejections – 35 U.S.C. § 103*

Claims 13-22 and 24-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Qiao (US 6,956,868 B2) in view of Masuda et al. (US 2002/0059432 A1).

Claims 1-12 and 32-41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Qiao in view of Masuda et al. and further in view of Freeman (“Telecommunication System Engineering” by R. Freeman, John Wiley & Sons, 1980, pp. 99-103).

Claims 23 and 27-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Qiao in view of Masuda et al., and further in view of Braden et al. (R. Braden et al., RFC-2205, “Resource ReSerVation Protocol (RSVP) – Version 1 Function Specification, IETF, September 1997).

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03.

Independent claim 13 recites, in pertinent part,

detecting an unavailability of a network resource along the lightpath after the network resource has been reserved;  
generating a resource cancellation message identifying network resources that may be released in response to detecting the unavailability of the network resource;

Applicants respectfully submit that the combination of Qiao and Masuda fail to disclose, teach, or suggest detecting an unavailability of a network resource after the network resource has already been reserved.

To be sure, Qiao discloses

If, however, the bandwidth reservation/switch configuration at an intermediate LOBS node is not successful, the control packet will be

dropped, and a negative acknowledgment (NAK) packet will be sent to the ingress LOBS node.

Qiao, col. 4, lines 55-59. Accordingly, this portion of Qiao discloses that if a reservation is not successful or cannot be established, then a NAK packet is sent back to the ingress LOBS. Detecting whether a resource is available prior to reserving the resource and then sending a NAK message upstream to an ingress node does not disclose detecting the unavailability of a network resource after the very same resource has already been reserved and then generating a cancellation message to release network resources in response thereto.

Similarly, Masuda discloses

[0533] Moreover, the resource managing section 423 judges, based on contents contained in the resource managing data table 424, whether the resource amount corresponding to the service type designated by the temporary reservation message can be used or not, by using the following arithmetic expression (5):

$$\text{Ping}[i] = \text{Ping}[i] + R \quad (6)$$

...

[0537] However, [when] the arithmetic expression (5) is not satisfied, a message that the reservation is impossible is notified to the reservation managing section 422 and the reservation response message indicating that the acceptability state is "NG" is returned back to the upstream device, that is, the previous HOP.

Accordingly, these portions of Masuda discloses that when a resource amount corresponding to the service type requested is not available, the reservation is deemed impossible and a reservation response message NG indicating the reservation is not accepted is returned back upstream. Thus, Masuda teaches sending the NG response message when a reservation cannot be established. As such, Masuda fails to disclose detecting the unavailability of a network resource after the very same resource has already been reserved and then generating a cancellation message to release network resources in response thereto.

Braden and Freedman also fail to disclose, teach, or suggest this very same element. Accordingly, Qiao, Masuda, Braden, and Freedman, either alone or in

combination, fail to teach detecting an unavailability of a network resource after the network resource has already been reserved.

Consequently, the cited prior art fails to teach or suggest all elements of claim 13, as required under M.P.E.P. § 2143.03. Independent claims 1 and 32 include similar nonobvious elements as independent claim 13. Accordingly, Applicants request that the instant §103(a) rejections of claims 1, 13, and 32 be withdrawn.

#### Dependent Claims

The dependent claims are novel and nonobvious over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicants respectfully request that the instant § 103 rejections of the dependent claims be withdrawn.

In particular, dependent claim 11, recites, in pertinent part,

The apparatus of claim 1, wherein the resource cancellation message is **sent to a network node that is downstream** from the switching node apparatus.

Applicants respectfully submit that the cited prior art fails to disclose, teach, or suggest sending a resource cancellation message to network nodes downstream from a node where a reserved network resource is detected as being unavailable.

To be sure, as acknowledged by the Examiner, Qiao discloses “that if the reservation is not successful, a negative acknowledgement packet will be sent to the ingress LOBS node.” Sending a negative acknowledgment to the “ingress” node would constitute sending the negative acknowledgement upstream—not downstream. Similarly, paragraph [0539] of Masuda discloses sending the NG message upstream—not downstream. Accordingly neither Masuda nor Qiao teach or suggest sending resource cancellation messages downstream.

Dependent claims 21 and 40 include similar nonobvious elements as dependent claim 11.

### CONCLUSION

In view of the foregoing amendments and remarks, it is believed that the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 292-8600 if the Examiner believes that an interview might be useful for any reason.

### CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

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